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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,620	11/25/2003	Stephen Doncov	5362-000451/COB	7701

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EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/721,620		DONCOV ET AL.	
	Examiner		Art Unit	
	Dennis H. Pedder		3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-17, 19-20, 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is apparently incorrect and/or vague. There is no disclosure to the back window being coupled to the side rails.

Claims 14 and 17 are incorrect. The back window has track 205, the first panel has track 271. These are not the same tracks. The use of the vague term "at least one" does not clarify this invention per the statute. See also claim 20, same problem.

Claim 7 is incorrect. Tracks 271 and 205 are not disclosed as within the side rails.

Claim 12 is incorrect. Third mechanism 671 is not coupled to track 271. See above comments regarding "at least one".

Claim 19 lacks antecedent for "said support structure".

Claim 26 lacks antecedent for the second roof panel, found in claim 23.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the roof panels and window coupled to the stationary side rails, claim 6, the tracks within the side rails, claim 7, if intended, and

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positioned below a beltline, claim 9, must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 18-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Renneker.

6. Claims 22, 28, 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chaban.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 6-8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW.

MGA has side rails 4/21, first panel 4, back window 6, storage compartment at 8, and lacks a second panel, a feature known in this art as evidenced by BMW. It would have been

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obvious to one of ordinary skill to provide in MGA a second roof panel as taught by BMW in order to allow more selective opening of the roof.

As to claim 8, actuators to drive windows and roof panels are common knowledge in the art, obvious to use here to reduce effort of movement.

As to claim 13, this movement is of common knowledge in the art, obvious to use here to same interior space.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

Applicant is further cautioned that in view of the potential later consequences of such a challenge in regard to Rule 56, clear statements as to the belief by applicant that the subject matter of each challenged claim is not of common knowledge is required in order for the examiner to produce evidence of same in response.

10. Claims 1-2, 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW as applied to claim 6 above, and further in view of Neubrand.

It would have been obvious to one of ordinary skill to provide in the references above a covering panel for a storage compartment as taught by Neubrand in order to ease access to the compartment for the sliding panels, which can thus be more diverse in configuration.

Claims 2 and 4 are common knowledge in the art, obvious to support and move in a known manner.

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11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker.

It would have been obvious to one of ordinary skill to position the panel/window drive below a beltline as taught by Renneker in order to isolate noise.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker as applied to claim 14 above and further in view of Chika.

It would have been obvious to one of ordinary skill to provide in the references above a continuous loop drive as taught by Chika as a known device in this art.

13. Claims 3, 12, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW, optionally in view of Neubrand or further over Renneker as applied to claims 6, 1, and 19 above, and further in view of Varner.

It would have been obvious to one of ordinary skill to provide in the references above a four bar linkage and cable/motor drive as taught by Varner in order to move the rear window in a known manner.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW as applied to claim 8 above, and further in view of Renneker

It would have been obvious to one of ordinary skill to position the panel/window drive below a beltline as taught by Renneker in order to isolate noise.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW and Renneker as applied to claim 9 above, and further in view of Chika.

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It would have been obvious to one of ordinary skill to provide in the references above a continuous loop drive as taught by Chika as a known device in this art.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of BMW as applied to claim 6 above, and further in view of Neubrand.

It would have been obvious to one of ordinary skill to provide in the references above a closure for the storage compartment as taught by Neubrand in order to ease access.

17. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker as applied to claim 14 above, and further in view of Neubrand.

See above comments regarding Neubrand.

18. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over MGA in view of Renneker as applied to claim 14 above, and further in view of BMW and Varner.

It would have been obvious to one of ordinary skill to provide in the references above a second roof panel as taught by BMW and a four bar linkage for a back window as taught by Varner in order to selectively vent the interior and move a window in a known manner.

19. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Renneker in view of Chika.

It would have been obvious to one of ordinary skill to provide in Renneker a continuous loop drive as taught by Chika in order to move the roof panel in a previously disclosed manner.

20. Claims 22, 28, 29 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Chaban in view of Renneker.

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While the back window is schematically shown in Chaban, it is specifically shown in Renneker. Chaban has stationary side rail 36.

21. Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaban or Chaban in view of Renneker as applied to claim 22 above and further in view of BMW.

It would have been obvious to one of ordinary skill to provide in the references above a second roof panel as taught by BMW in order to allow more selective opening of the roof.

As to claims 24-25, these are common knowledge in the art.

22. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaban or Chaban in view of Renneker as applied to claim 22 above, and further in view of Farber.

It would have been obvious to one of ordinary skill to provide in the references above a bulb seal between panels as taught by Farber in order to seal.

23. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaban or Chaban in view of BMW or in view of Renneker and BMW as applied to claim 23 above and further in view of Farber.

It would have been obvious to one of ordinary skill to provide in the references above a seal between panels with a drain trough 70 as taught by Farber in order to seal and drain.

This claim is treated as if dependent on claim 26 due to its logical inconsistencies.

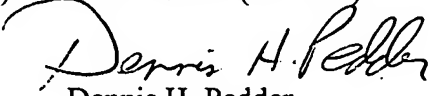
Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rund shows a further retractable hardtop. Pickering is cited to show a tonneau closure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dennis H. Pedder
Primary Examiner
Art Unit 3612

11/3/04

DHP
11/03/2004